



**Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals**

John Lee, Chairman  
Susanne Murphy, Vice Chair  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Rick Merrikin, Member  
Drew Delaney, Assoc Member

**DECISION – WALPOLE ZONING BOARD OF APPEALS CASE NO. 13-19**

**APPLICANT  
John & Grace Meleo**

**LOCATION OF PROPERTY INVOLVED  
7 Burrill Street  
Walpole Assessors Map: 18; Lot 76, Zoning District GR.**

**FILE**

**APPLICATION**

A **Special Permit** pursuant to Section 6-C.4 of the Zoning By-Laws to allow a second home on the lot to replace the second home that was significantly damaged by fire, at 7 Burrill Street, Walpole, MA 02081.

On July 17, 2019 a Public Hearing was held in the Main Meeting Room of Town Hall, and continued to August 21, 2019 and again on September 18, 2019 for the purpose of receiving information and voting upon a decision as to the granting of the Special Permit and Finding requested.

The following members were present and voting:

John Lee, Chairman  
Susanne Murphy, Vice Chairman  
Bob Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Rick Merrikin, Member

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A motion was made by Coffey, seconded by Murphy, to grant a **Special Permit** under Section 6-C.4 of the Zoning By-Laws to allow a second home on the lot to replace the second home that was significantly damaged by fire, at 7 Burrill Street, Walpole, MA 02081.

The vote was **(4-1-0) in favor** (Fitzgerald, Murphy, Coffey, Merrikin in favor; Lee opposed); therefore the application for a **Special Permit** is hereby **granted, subject to the following conditions:**

**CONDITIONS:**

135 School Street, Walpole, MA 02081

1. The second principal building shall be constructed according to the revised plans and renderings submitted at the public hearing on September 18, 2019, dated August 12, 2019, titled "Meleo Residence, 7 Burrill Street, Walpole, MA" and "Site Plan for 7 Burrill Street, Walpole MA" dated August 8, 2019 signed and stamped by Curt A. Nunes of Commonwealth Land Surveyors, Inc., 1182 South Main Street, Attleboro, MA 02703.
2. Any cone of light located within the backyard shall not extend beyond the property line.
3. Prior to the issuance of a building permit, the property owner shall record this Decision with the Norfolk County Registry of Deeds and provide a copy along with proof of recording to the Board of Appeals, Town Clerk and Building Department.
4. When ownership of the property changes, the new owner(s) shall notify the Building Commissioner so as to update records.
5. The Applicant shall receive a Certificate of Occupancy from the Building Department before occupying the second principal building.
6. Utilities shall be in place as shown on the plans submitted with the Application.
7. The life safety devices (smoke and CO detectors) in the second principal building shall be in compliance with the current fire code.
8. The Board encourages the Applicant to communicate with abutters to the property on the status of the final design of the building wall facing to the north (i.e., the "back" of the building, opposite the main entry and the entry to the garage).
9. There shall be no additional relief granted.

### **REASONS FOR DECISION**

It is the finding of the Board that the Application met the requirements of Section 6-C.4. to allow the requested second dwelling unit on a lot in the General Residence District. The Board finds the Applicant properly applied for all relief necessary in accordance with the Zoning By-Laws for this project as confirmed by the Building Commissioner/Zoning Enforcement Officer. The Board finds that the project is in character with and follows the intent of the General Residence District. Accordingly, the Board has determined that the Special Permit requested is warranted.

### **FINDINGS**

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.2.B of the Zoning Bylaws, which requires that:

***(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:***

***(a) Does and shall comply with such criteria or standards as shall be set forth in in the section of this Bylaw which refers to the granting of the requested special permit;***

As detailed herein, the proposed project complies with the provisions of Section 6.C.4. of the Zoning Bylaw, thus this criterion is met.

***(b) Shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;***

The Board finds that the proposed second principal building on the lot will not significantly increase vehicular or pedestrian traffic, as the Applicants will be the only occupants of the proposed second principal building on the lot, this requirement is therefore met.

***(c) Shall not have a number of residents, employees, customers, or visitors so as to adversely affect the immediate neighborhood;***

The Board finds that the proposed project will not result in an increase in the number of residents or visitors that would adversely affect the immediate neighborhood (employees and customers do not apply to this residential site) and this requirement is therefore met.

***(d) Shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

There are no buffer zone requirements associated with this use.

***(e) Shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that single family residential uses are not known to be dangerous due to fire, explosion, emission of wastes, or other causes. As such, the Board finds that this criterion is met.

***(f) Shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds the proposed second principal building on the lot will not create more substantial noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance so as to adversely affect the immediate neighborhood. As such, the Board finds that this criterion is met.

***(g) Shall not adversely effect the character of the immediate neighborhood; and***

The Board finds that the property lies within a General Residence neighborhood and that the proposed second principal building on the lot is reasonable for the neighborhood. The proposed second principal building on the lot will be larger than what was previously there, however, the design of the building will not be visible from the street, as it will be located in the rear of the property. Lastly, the design of the proposed building is an improvement to the neighborhood since the previous building was a loss by fire, and has therefore been determined that it will not be substantially more detrimental to the neighborhood than the existing structure. The Board therefore finds that this criterion is met.

***(h) Shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.***

The Board finds that the proposed second principal building on the lot is appropriate for the GR Zoning District, where more than one principal building is allowed by right. As such, the Board finds that this criterion is met

\* \* \* \* \*

**Consistency: This decision is consistent with purpose and intent of the Zoning Bylaw.**

**The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.**

\* \* \* \* \*

Said Special Permit is granted pursuant to Massachusetts General Laws c. 40A, s.9 which provides in pertinent part as follows:

*"...special permits granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."*

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

*"A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."*

**MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF c 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.**

WALPOLE ZONING BOARD OF APPEALS

  
Robert Fitzgerald, Clerk

cc: Town Clerk  
Building Inspector  
Applicant

This decision was made on September 18, 2019 and filed with the Town Clerk on October 1, 2019

RF/am

135 School Street, Walpole, MA 02081